

*1 Office of the Attorney General
State of Tennessee

Opinion No. **85-205**
June 27, 1985

CONTRACTS: Freedom to Contract: Municipal Corporations:

Authority of an Emergency Communications District Board to hire and manage employees to operate an independent answering point; obligation of the Board to pay personnel costs of a public safety agency if the Board chooses an existing agency as an answering point. T.C.A. §§ 7-86-101 et seq., - 107, 12-9-101 et seq., -108; Op.Atty.Gen. 81-532 (September 24, 1981).

COUNTIES: Interlocal Cooperation: Services:

Authority of an Emergency Communications District Board to hire and manage employees to operate an independent answering point; obligation of the Board to pay personnel costs of a public safety agency if the Board chooses an existing agency as an answering point. T.C.A. §§ 7-86-101 et seq., - 107, 12-9-101 et seq., -108; Op.Atty.Gen. 81-532 (September 24, 1981).

INTERLOCAL COOPERATION ACT:

Authority of an Emergency Communications District Board to hire and manage employees to operate an independent answering point; obligation of the Board to pay personnel costs of a public safety agency if the Board chooses an existing agency as an answering point. T.C.A. §§ 7-86-101 et seq., - 107, 12-9-101 et seq., -108; Op.Atty.Gen. 81-532 (September 24, 1981).

Mr. Brian L. Kuhn
County Attorney
Shelby County Government
Suite 801
160 N. Mid-America Mall
Memphis, Tennessee 38103

Dear Mr. Kuhn:

You have requested an opinion on the following questions:

QUESTIONS

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1. If an Emergency Communications District Board establishes an independent answering point, does the Board have authority under the Emergency Communications District Law (T.C.A. § 7-86-101 et seq.) to hire and manage employees to operate the independent answering point?

2. If an Emergency Communications District Board chooses an existing public safety agency to be the public service answering point for providing 911 service, is the Board under any legal obligation to pay any of the personnel cost of the public safety agency involved in staffing the public service answering point? If so, how should the portion to be paid by the District Board be determined?

OPINIONS

1. The Board has authority pursuant to T.C.A. § 7-86-105(g) to hire and manage any employees necessary to operate an independent answering point.

2. The District Board is authorized by the Interlocal Cooperation Act, T.C.A. § 12-9-101 et seq. to enter into a joint venture or contract with another public agency to perform public service answering point functions. The terms of such an agreement would be negotiated by the parties.

DISCUSSION

1. T.C.A. § 7-86-105(g) provides:

The board shall have the authority to employ such employees, experts, and consultants as it may deem necessary to assist the board in the discharge of its responsibilities to the extent that funds are made available.

*2 Therefore the Board may at its discretion, hire and manage employees to operate an independent answering point.

2. The Emergency Communications District Law, T.C.A. § 7-86-101 et seq., does not address arrangements the District Board may make with another agency in fulfilling the Board's duties under the law (except that "the involved agencies may maintain a secondary backup number and shall maintain a separate number for nonemergency telephone calls." T.C.A. § 7-86-107).

The Interlocal Cooperation Act, T.C.A. § 12-9-101 et seq. enables local governmental units to cooperate with other governmental units. If the District Board were to enter into joint or cooperative action with another public agency, such agreement would be governed by the provisions of T.C.A. § 12-9-104. T.C.A. § 12-9-104 controls if a separate legal or administrative entity is created or if an administrative or joint board is responsible for administering the contract. A contract under this section would be negotiated by the parties and specify the items listed in § 12-9-104(c).

An "interlocal contract for performance of services" is authorized by T.C.A. § 12-9-108 which provides:

Any one or more public agencies may contract with any one or more public

agencies to perform any governmental service, activity or undertaking which each public agency entering into the contract is authorized by law to perform, provided that such contract shall be authorized by the governing body of each party to the contract. Such contract shall set forth fully the purposes, powers, rights, objectives, and responsibilities of the contracting parties. Contracts entered into pursuant to this section need not conform to the requirements set forth in this chapter for contracts for joint undertakings.

"Public agency" is defined by § 12-9-103(1) to mean "any political subdivision of this state, ... any agency of the state government or of the United States ..."

This would encompass the Emergency Communications District. (See Op. Atty. Gen. 81-532 (Sept. 24, 1981)). Under this provision, the District Board could negotiate a contract with any other "public agency" as defined above to perform the public service answering point functions. Absent indications of a joint venture discussed above, § 108 rather than § 104 would control.

Nothing in either the Emergency Communications District Law or the Interlocal Cooperation Act controls the specific content of such a contract, such as obligation to pay the personnel cost involved or how much should be paid. As with any contract, the parties are free to negotiate a contract that best suits their needs.

If you have any further questions, do not hesitate to contact us.

Sincerely,

W.J. Michael Cody

Attorney General and Reporter

John Knox Walkup

Chief Deputy Attorney General

Christine Modisher

Assistant Attorney General

Tenn. Op. Atty. Gen. No. 85-205, 1985 WL 193754 (Tenn.A.G.)

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